

# Unholy Pursuit: The Charles Zentai Case in Australia

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*"Circumstantial evidence is a very tricky thing,' answered Holmes thoughtfully; 'it may seem to point very straight to one thing, but if you shift your own point of view a little, you may find it pointing in an equally uncompromising manner to something entirely different. It must be confessed, however, that the case looks exceedingly grave against the young man, and it is very possible that he is indeed the culprit.'" —"The Boscombe Valley Mystery" by Sir Arthur Conan Doyle*

## The Background

The current pursuit of alleged Nazi war criminals was enabled in Australia by the amendment of the War Crimes Act in 1988. Public pressure to enable such a campaign had been stimulated by various factors, including claims about the imminent deportation from Australia of an alleged Nazi war criminal, a Latvian named Konrad Kalejs, and a well-publicised Australian Broadcasting Corporation radio series produced by a collaboration between Mark Aarons (an ABC [Australian Broadcasting Corporation] producer and a longstanding associate of the Sydney communist community) and John Loftus (a disaffected former member of the US Office for Special Investigations).<sup>[1]</sup>

As Professor Robert Manne, a prominent Australian intellectual and a Jew, noted,<sup>[2]</sup> the issue thus raised became the subject of a government inquiry in 1986 under Mr Andrew Menzies, the resulting report being used as the basis of proposed new legislation in the form of an amendment to the 1945 legislation establishing a military tribunal to try Japanese war criminals. Menzies 'examined allegations against two hundred people who had allegedly committed war crimes and were living in Australia..... (he) put aside a number of allegations because they were too vague or because there was insufficient connection between the alleged events and the person concerned or the crime was not serious enough. His list was reduced to some seventy people.'<sup>[3]</sup> There is a reasonable presumption that Menzies was chosen for the job because he could be depended upon to produce a report consonant with the Australian Government's wishes; and it was convenient that he had a surname comforting to Australian conservatives because of the famous Liberal prime minister, Sir Robert Menzies. In my view the Menzies Report failed to find adequate justification for the holding of the desired trials. It relied on the tainted precedent of the Nuremberg and other post-World War Two trials, and on popular opinions.

Manne bravely pointed out that 'the momentum' for the campaign 'seems to have been generated by... the Office of Special Investigations, the Simon Wiesenthal Centre and the World Jewish Congress.'<sup>[4]</sup> In short, there was no demand for the campaign from the Australian people themselves.

After an intense debate in the nation's public forums, during which the proposed legislation was opposed by many of Australia's judges and lawyers, the amendment was made law by the federal Parliament, since it enjoyed the support of the then Government, led by Australian Labour Party prime minister Bob Hawke, which had a majority in both the House of Representatives and the Senate.

This decision went against the advice in 1961 of the then Acting Minister for External Affairs, Sir Garfield Barwick QC, to the effect that the time had come to close the chapter on war crimes relating to World War Two.<sup>[5]</sup> It also went against the joint decision in 1963 by the Australian Government and the opposition that, legally speaking, the question of Nazi war crimes should be drawn to a close.<sup>[6]</sup>

The Hawke government seemed over-zealous in its devotion to the cause. Thus, in 1987, well before the amendment bill had been passed in the Parliament, the man who became head of the nation's war crimes unit, Robert F. Greenwood QC, was travelling overseas to negotiate agreements about the provision of evidence by the Soviet Union and the communist governments in Hungary and Yugoslavia!<sup>[7]</sup>

A challenge to the legislation was later made in the Australian High Court.<sup>[8]</sup> It was narrowly lost in August 1991 by a 4-3 decision. This enabled cases to be brought against three suspects. Ivan Polyukhovich went on trial on 28 October of that year and was found not guilty in May 1993. The charges against Heinrich Wagner were later withdrawn 'because of ill health'. A third case against Mikolay Berezowsky was withdrawn because there was 'insufficient evidence for a trial.'<sup>[9]</sup> The farcical nature of some stages in these legal proceedings was exemplified by an incident during the first stages of the prosecution of Berezowsky. "A 78 year-old witness was asked to identify the accused. Instead of doing so, the witness confidently put his glasses on and pointed to a 76 year-old Texan lawyer, Mr Robert Caswell, who was seated in the public gallery about ten yards from Berezowsky!"<sup>[10]</sup>

No wonder, then, that one of the public protesters against these trials had been, in November 1991, Sir Walter Crocker, a former Lieutenant Governor of South Australia for nine years and, before that, an Australian ambassador for nearly twenty years. Sir Walter issued an important statement at the time, in which he said, *inter alia*: 'Our Federal Government, in spite of including a number of men of undoubted integrity and ability, has agreed to the trial [of Polyukhovich] through giving in to the pressures of a lobby that represents very few Australians and no Australian interests, but which is buttressed with great wealth, with exceptional self-centred persistence, and with ruthless cleverness. A connected lobby has been operating with similar effects in England and France. Its propaganda, accepted by large segments of the mass media, has confused and misled Australians, even those normally well informed.

*"...This and related trials are not driven by justice but by hatred and revenge..... The events took place half a century ago. The nature of evidence available is dubious. That is why the great majority of names on the lobby's original lists have, on legal advice, been dropped by the Government..... The accused committed no crimes in Australia during their years here..... The accused committed no crimes against Australians anywhere..... The spirit of hatred and revenge unleashed by the trials can poison and destabilise nations as well as persons."*<sup>[11]</sup>

The campaign had ended in fiasco. Its promoters then turned to a second strategy. In 1988 Professor Manne had commented that one way of dealing with alleged Nazi war criminals would be deportation to the Soviet Union. 'This,' he said, 'would be legally proper in a sense, but would mean the impossibility of a fair trial and their death. For the reasons given by Senator Cooney, this is impossible.'<sup>[12]</sup>

Despite this, the relevant lobby, apparently determined to ensure that Australia played its part in their scheme, turned in subsequent years to the different approach of extradition. Australian justice had proved itself to be too protective of the rights of those accused. It seemed better, then, to turn to the US model. Get the suspects deported to some Eastern European nation where the style of justice was rather different and successful prosecutions thus more likely. To facilitate this, over the next two decades Australian extradition law was changed and agreements for extradition signed with various relevant nations. The attack was then renewed in Australia. Some of the suspects, like Kalejs, died before they could be deported. But Charles Zentai has lived on into his nineties and is now the prime target. At the time of writing (31 July 2012) his case is before the High Court. If he loses it, the Australian

Government will have the final say over whether or not he should be deported to Hungary. It is time to turn to his story.

### **The Accusations**

The chief pursuer of Charles Zentai is Dr Efraim Zuroff, director of the Jerusalem-based Simon Wiesenthal Centre. He provided a summary of the case against Zentai in 2007. [13] Zuroff explained that the Centre had launched 'Operation Last Chance', a final attempt to bring Nazi war criminals to justice, in Hungary on 13 July 2004. Zuroff explained how this project, which included the offering of money for information, brought attention to Zentai: 'Local Holocaust scholar Laszlo Karsai sent me a letter from Adam Balazs, an elderly Holocaust survivor living in Budapest, with about two dozen yellowing pages that clearly were copies of witness statements from 1948. According to Karsai's cover letter, Adam Balazs had "a lot of first-hand documents proving that his brother Peter Balazs was killed by Karoly [later Charles] Zentai.



*Chief pursuer of Charles Zentai is Efraim Zuroff, director of the Simon Wiesenthal Centre (2007). Arikb at the Hebrew language Wikipedia [GFDL (<http://www.gnu.org/copyleft/fdl.html>) or CC-BY-SA-3.0 (<http://creativecommons.org/licenses/by-sa/3.0/>)], from Wikimedia Commons*

*'What emerged from the testimonies was that in the fall of 1944, Karoly Zentai, an officer in the Hungarian Army serving in Budapest, would frequently go on manhunts for Jews, who were taken to his army barracks where they were severely beaten. On 8 November 1944 Zentai, while riding in a streetcar, identified 18 year-old Peter Balazs as a Jew who was not wearing the requisite yellow star. He forced*

*Peter Balazs off the streetcar and took him to his barracks at Arena Street 51. There, together with two fellow-officers accomplices, Bela Mader and Lajos Nagy, he beat the Jewish teenager to death. Later, together with the latter, he weighted the body down with rocks and threw it into the Danube River. After the war, Mader was sentenced to life imprisonment and Nagy to death for war crimes; and, in the course of the latter's trial, Zentai's role in the murder of Peter Balazs was revealed."*

Further information of the case against Zentai comes from Gyorgy Vamos.<sup>[14]</sup> This commentator stated that he had spent several months sifting through the surviving records of the Budapest People's Court.<sup>[15]</sup>

Vamos wrote: "In the autumn of 1944 the army unit in which Karoly Zentai was a junior officer was housed at 51 Arena Avenue. After the Hungarian equivalent of the Nazi Party, the Arrow Cross, assumed power in October of that year, Budapest's residents lived in terror. Jews who ventured on to the streets risked their lives. Members of the army and the Arrow Cross stopped people on a whim and demanded that they prove their identity. Those whose papers were not considered to be in order were detained by army units and taken to the Arena Avenue barracks, where – under the guise of interrogation - they were beaten mercilessly."

After the war, several witnesses testified that in early November 1944 a young man was beaten to death at the barracks. Peter Balazs, a young Jewish man, had been drafted for forced-labour service in April 1944, but did not show up at the appointed place and time. Instead he lived in Budapest using false (Christian) identity papers. On 8 November 1944 he left home and disappeared.

*"Peter's father, Dezso, a lawyer from the outlying suburb of Budafok, subsequently spoke to one of the witnesses who claimed that a young man had been killed by the army at around this time. In April 1948 Dezso Balazs officially accused Karoly Zentai of involvement in his son's murder....."*

*"Dezso Balazs [testified]: 'Zentai knew that my son visited the Union Construction Workers and that he took part in the resistance movement. He mentioned a number of times to his fellow officers that he would like to get hold of my son.'"*

Vamos listed a number of others who testified against Zentai before the People's Court in 1948. These included Janos Mahr (a soldier in the unit), although there is some doubt as to whether or not he specifically implicated Zentai. Others were Nagy, Mader, Miklos Polonyi (another unit member), Imre Zoltan (a Jewish forced-labourer) and Sergeant Jozsef Monori (who stated that he arranged the transport to the Danube for the murderers and the body).

More light on the case against Zentai was cast by David Weber of the Australian Broadcasting Corporation in 2010.<sup>[16]</sup> Weber explained how the Soviet Army 'was driving across Hungary' at the time, 'crushing German resistance. By November, the Soviets were in the suburbs of the capital. The transport unit [Zentai's] was ordered out of the city, possibly as a means to save Hungarian troops, their families and their equipment from obliteration.....

*"After the war, the regime in Hungary set about charging and convicting those who'd persecuted or killed Jewish people..... "*

*"Statements from Mader and Nagy reportedly prompted the Hungarian authorities to ask for Zentai – then in the American zone in Germany – to be sent back..... It's not known why Zentai was not extradited*

*to Hungary then..... There's no evidence that Zentai knew of the request from Hungary, or of the accusations against him..... Zentai has never directly been accused of being a member of the Nazi Party or any Hungarian affiliate."*

Vamos pointed out that, when Mader and Nagy were called to account for the killing, no proof of their alleged action was found. Presumably this means that the body was never found.

In summary, Zentai stands charged with a specific act of murder, understood as a war crime in the overall context of the Holocaust, and with other non-specified acts of violence against Jews.

Without at this stage considering the veracity or otherwise of the case against Zentai, we can note that it is credible and makes sense; and we can feel sympathy and admiration for a father and a brother who may well have laboured hard and sincerely to obtain what they believed was justice in connection with their lost relative.

### **The Proceedings**

In 2005 the Hungarian Government sought to have Zentai extradited from Australia to Hungary. In March of that year a Hungarian military tribunal issued an international warrant for Zentai's arrest. Australian Justice Minister Chris Ellison, a member of the then Liberal-National Coalition government, signed the request.<sup>[17]</sup> On 8 July Zentai was arrested by the Australian Federal Police to await an extradition hearing.<sup>[18]</sup>

In 2006 Perth magistrate Wayne Tarr rejected an attempt by Zentai to alter his bail conditions for reasons of poor health. A Federal Court bid to have the extradition quashed was scheduled to be heard on 28 July of that year.<sup>[19]</sup> On 29 July *The Australian* reported on a joint challenge by Zentai and another litigant fighting extradition to Ireland over fraud charges. 'Lawyers for Zentai claimed that magistrates do not have the constitutional power to hear extradition applications. Barrister Dr Steven Churches argued that magistrates had no standing in international law and were not legally equipped under the Constitution to make decisions on behalf of the Commonwealth of Australia.'<sup>[20]</sup> On 12 September Judge Antony Siopis of the Federal Court ruled that Zentai must face an extradition hearing in Perth Magistrates Court on 22 September, when a hearing date could be set.<sup>[21]</sup>

Zentai and his co-litigant appealed the decision of Judge Siopis to the full bench of the Federal Court. Zentai's lawyers argued that his health was too poor to justify extradition. They said that the role of hearing extraditions was not the responsibility of a magistrate because the state government did not assent to it. The republics of Ireland and Hungary claimed that magistrates do have the right to hear extradition proceedings because their posts make them *persona designata*. On 16 April 2007 Zentai's appeal was dismissed, the result being announced by Justice Brian Tamberlin. <sup>[22]</sup>

The High Court on 3 September granted Zentai special leave to appeal to it. Earlier he had failed to avoid extradition proceedings while his appeal went to the High Court. Prosecutor Pauline Cust had argued that the warrant for Zentai's arrest had been issued in 2005 and that proceedings should no longer be delayed. Magistrate Graeme Calder agreed and adjourned the matter until 7 August. However, on 25 September Perth magistrate Steven Heath put off until February 2008 a decision on Zentai's extradition hearing date, pending the result of his High Court challenge.<sup>[23]</sup>

The challenge was lost on 23 April 2008 by a majority of six to one. Zentai on this occasion had been joined with two other litigants. The trio had argued that extradition law was invalid because it involved a 'constitutionally impermissible' attempt by the Commonwealth to impose a duty upon magistrates as holders of a statutory office. But the High Court found the law did not impose a duty on magistrates. 'It conferred a power which, under the Crimes Act, the state magistrates were not obliged to accept.' Zentai's extradition case was now to be heard in court in Perth on 12 August. [\[24\]](#)

The date was later changed to 18 August, on which date Zentai was to face a three-day extradition hearing before Magistrate Barbara Lane. If she decided Zentai should be extradited, his only avenue of appeal would be to the ALP Government's Home Affairs Minister Bob Debus. There were several grounds on which the minister could prevent an extradition, including health or humanitarian issues. [\[25\]](#) Michael Corboy SC, acting for Hungary, told the court on 18 August that the extradition was an administrative process and that the Federal Attorney General would make the final decision. [\[26\]](#) Zentai's lawyers told the magistrate that the legislation under which their client had been charged was not valid at the time of the alleged offence. Zentai had been charged under the wrong legislation. Grant Donaldson SC said that, although the 1878 Hungarian Criminal Code was valid at the time, Zentai had been arrested under legislation that did not come into effect until 1945, a year after the alleged offence. Commonwealth prosecutor Michael Corboy SC said that, under extradition proceedings, the magistrate was not permitted to delve into foreign law. He said that whether the legislation was valid was a matter for the Federal Attorney General. [\[27\]](#)

In August 2008 Magistrate Barbara Lane ruled that Zentai had satisfied administrative requirements for extradition. The alleged crime must be punishable by more than one year in prison, it must be an offence under the laws of both countries, and the charges must not be politically motivated. [These were the criteria for extradition according to a bilateral treaty signed by Australia and Hungary in 1997.] [\[28\]](#)

Zentai appealed against this ruling to the Federal Court. On 30 March 2009 Federal Court Judge John Gilmour ruled that Zentai was eligible for extradition and that Magistrate Barbara Lane had been correct to rule that he could be sent to Hungary. In response to the argument that the extradition could not proceed because the charge Zentai was facing was not an offence at the time it was allegedly committed, Grant Donaldson SC had replied that under the extradition treaty between Hungary and Australia, the law could be applied retrospectively. [\[29\]](#)

Zentai decided to appeal to the full bench of the Federal Court. On 8 October 2009 he lost this appeal, but was granted a stay of fourteen days on the execution of the extradition warrant. [\[30\]](#) Zentai's legal team now had to consider whether to seek leave to appeal to the High Court. According to Ernie Steiner, his son, Zentai had already faced legal bills of more than \$200,000. The final say on Zentai's surrender would now be made by Home Affairs Minister Brendan O'Connor, to whom Zentai's family had already made lengthy submissions. [\[31\]](#) Zentai decided not to seek leave to appeal to the High Court and surrendered himself to the Australian Federal Police and imprisonment. [\[32\]](#) On 12 November 2009 the Australian Government approved Zentai's extradition to Hungary, making this the first case in which that government had approved of extraditing any Nazi suspect. [\[33\]](#) O'Connor confirmed that the Government would not intervene to overturn the Federal Court ruling that Zentai could be extradited. Subject to any legal challenge, Hungarian authorities had two months to arrange the extradition. Zentai had spent the past three weeks in gaol. O'Connor said that the decision to approve extradition was not

an indication of Zentai's guilt or innocence. 'It was about deciding whether or not Zentai should be surrendered to Hungary in accordance with Australia's extradition legislation and its international obligations,' [34] Zentai's lawyers had argued that he should not be extradited because of his ill health, because he would not receive a fair trial and because witness statements were tainted. [35]

Zentai decided to appeal the Australian Government's decision to the Federal Court. Hungary stated that it would wait until all Zentai's appeals were exhausted before taking any further steps on the extradition. Zentai was granted bail on 16 December 2009, ending two months in custody, during which he was locked up for fifteen hours minimum each day. [36]

Early in 2010 there came the dramatic news that a leading Perth barrister, Malcolm McCusker QC, had taken up Zentai's fight for no fee. 'His first task will be to argue to the Federal Court for access to the unedited documents on which Home Affairs Minister Brendan O'Connor based his November 2009 extradition ruling in the case.' The Minister's office had told Zentai the departmental documents could not be completely released due to legal professional privilege. Zentai's legal team had only an edited version of the sixty-page document. 'We need to at least know what the reason was behind the Minister's decision,' said McCusker. 'They're refusing to give it to us... so much for open government!' McCusker said that grounds for appeal could be that there is no basis to extradite for questioning, and that it would be unfair because there were no living witnesses who could testify. [37]

In February Zentai asked the Australian Human Rights Commission to help stop the extradition. His lawyer wanted the Commission to intervene in the coming legal challenge to be heard in the Federal Court in late March. [38] In asking the Commission President, Catherine Branson, to intervene, lawyer Denis Barich argued that the Zentai case qualified as a discrimination and human rights issue because of the need of Hungary to ensure it could provide for a fair trial. The Commission could investigate whether any trial might be jeopardised by the absence of any relevant witnesses and whether a trial could also be prejudiced by Zentai's political leanings or nationality. The application also questioned whether possible coercion or torture were grounds for investigating statements made to Hungarian authorities in the late 1940's which could be used against Zentai. Barich said that the Commission could assist the courts and help Zentai pay for his fight against extradition. Barich sought the Commission's intervention on the basis that 'the applicant is a pensioner without legal aid who is not in a financial position to afford the numerous human rights documents and authorities that the case requires.' [39]

During the appeal hearing the Government lawyer, Jeremy Allanson SC, insisted that O'Connor's decision was in accordance with Australia's extradition treaty with Hungary. 'This is a matter of international obligation. It's a matter of Australia being consistent with the treaty.' Zentai was appealing to the Court to either quash O'Connor's decision or refer his case back to the Minister so that discretionary factors such as his nationality and age could be considered. Allanson responded that O'Connor had already been told [before making his decision] of these matters and that Zentai was an Australian citizen with a 'meaningful connection' to Australia. [Zentai had migrated to Australia in 1950.] [40]

At this point Zentai experienced a dramatic change of fortune. On 2 July he won his appeal. Federal Court Judge Neil McKerracher found that Zentai was not liable for extradition and that it was beyond O'Connor's jurisdiction to make the order. The Judge said the Minister had failed to consider whether it would be 'oppressive and incompatible with humanitarian considerations' to extradite Zentai, given his age, ill health and the potential severity of the punishment. [41] The Judge also found that war crime

was not a 'qualifying extradition offence.' [42] Additional findings concerned the unreliability of the allegations against him, the difficulty in obtaining a conviction and the fact that Zentai had not actually been formally accused or charged with a crime. [43]

The Australian Government indicated that it would need time to decide whether there were legal grounds for appealing Judge McKerracher's decision. Some months went by and on 10 December 2010 the Judge noted that if no appeal had been received by 24 January 2011, Zentai should be considered a free man and released from bail. He also awarded costs to Zentai related to his 2 July decision.

Many of the minority of Australians who had followed this case were no doubt hopeful that reason and justice had finally prevailed. However, on 4 January 2011 O'Connor did launch an appeal. [44] McCusker, now an Australian of the Year nominee, said that he was appalled by the Government's determination to extradite one of its own citizens for unfounded war crime allegations. He pointed out that in the past the Commonwealth Director of Public Prosecutions had looked at all the evidence and determined there was no case to be answered. 'You have to question... what's motivating the Government to do this.' [45]

There was a two-day hearing of the appeal before Interstate Federal Court judges Anthony North, Christopher Jessup and Anthony Besanko on 16 and 17 May 2011. Zentai could not appear in court after suffering a stroke. (He had also suffered a stroke in 2010.) [46] Peter Johnston, a lawyer for Zentai, stated that O'Connor might have been misled by false information when he approved the extradition. In fact, Zentai's change of family name from Steiner to Zentai had occurred when Zentai was only thirteen. Zentai's legal team also claimed that the Hungarian authorities appeared to have no live witnesses for cross-examination in any case that might be taken against Zentai, this meaning that a fair trial was impossible. However, Government lawyer Stephen Lloyd said that those authorities had given an assurance that any trial would be fair and that it was not a safe assumption they had no witnesses. 'Hungarian authorities have their own material... they don't have to tell us.' He said it was clear that criminal proceedings were under way in Hungary against Zentai and that it was not just a preliminary investigation, as Judge McKerracher had concluded. [This, however, appears to have marked a change of position made very recently by Hungary, presumably to give them a better chance of obtaining the extradition.] Lloyd added that the Hungarian authorities did not have to send officers to Australia to question Zentai, as they "wanted to execute their own criminal procedures as they see fit." [47]

Throughout this protracted legal process over six years Zentai had always denied pulling Peter Balazs from a tram in Budapest and in taking part in the beating that led to his death. [48]

On 16 August 2011 the Federal Court judges announced that they upheld parts of the challenge but dismissed most of the arguments. Peter Johnston, acting for Zentai, said that O'Connor now must determine what constituted a 'war crime' before the case could continue. Zentai could lodge a further appeal in the High Court. A spokeswoman from O'Connor's office noted that the Court had in fact upheld two of the three grounds on which the Government had appealed. The one matter it did not agree with was that the offence should come under Australia and Hungary's extradition agreement. [49]

Zentai's case is currently, as of 31 July, before the High Court. On 28 March 2012 the Government told the court that it should be allowed to extradite Zentai to Hungary, despite war crimes not being an offence in Hungary at the time of the alleged actions. Zentai's counsel, Geoffrey Kennett SC, said that if Zentai could have been charged with murder under 1944 law, that offence should have been listed on the extradition warrant. [50]



As a postscript, the following information about proceedings in Hungary after World War Two may be noted.

Bela Mader was extradited to Hungary by the American Army in 1945. On 21 March 1946 he was sentenced to forced labour for life, but was released in September 1956. Lajos Nagy was accused when he returned from captivity in Russia in mid-1947. He was sentenced to death on 26 February 1948 for several crimes, including Balazs's murder, but this was later commuted to forced labour for life. Nagy left Hungary at the end of 1956.<sup>[51]</sup> The anti-communist uprising in Hungary of 1956 appears to have had favourable repercussions for both men. On 21 April 1948 the public prosecutor requested that the Budapest People's Court issue an arrest warrant for Zentai, alleging his involvement in war crimes and stating that he was in the American zone of Germany. The court issued the warrant on 29 April and requested that the Minister of Justice arrange Zentai's extradition. On 20 May the ministry announced that this had been undertaken through diplomatic channels, but the extradition never occurred. It is not known why. <sup>[52]</sup>

### **The Case against Zentai**

The case against Zentai appears to rest almost, if not entirely, upon documentary evidence, most of it coming from the communist-run People's Court in 1948. 'Evidence hidden in long-forgotten archives in Budapest indicts Zentai as the sole surviving suspect in this killing [of Peter Balazs].'<sup>[53]</sup> Vamos points out that the information Dezsó Balazs had acquired 'was detailed, right down to the presence of six Jewish forced labourers at the barracks.'<sup>[54]</sup> Vamos also addresses the claim by Zentai that he had already left Budapest the day before on 7 November 1944: "This is unlikely, as a soldier usually leaves his unit only if he is transferred or goes absent without leave. Zentai has not claimed that either situation applied.... Unit member Sandor Lippkai stated that they left some time between 10 and 15 November. According to yet another, Laszlo Moricz, the unit moved to Hanta on 11 November."<sup>[55]</sup>

The various witness statements appear largely, if not wholly, to support each other. Vamos reports: 'Some of the witnesses in the Mader and Nagy cases served in their unit, while others were Jews they had arrested. The testimonies coincide in some areas, and in others are complementary. They demonstrate that the unit regularly patrolled Budapest, checking people's identities and arresting and beating suspects.'<sup>[56]</sup>

Vamos brings forward a number of the key testimonies, as follows. In February 1948 another unit member, Miklos Polonyi, testified that... Nagy had boasted about the operations..... 'He also mentioned that one person, whom they had beaten to death, had been thrown into the Danube. He said he had someone helping him: Zentai.'..... In 1947 Nagy recalled a 17 or 18 year-old Jewish boy who had been brought in by Zentai and who was the son of a lawyer or physician from Budafok..... Mader, the unit's commanding officer, made two statements about the Balazs killing, the first on 22 March 1948: 'As far as I know... Zentai, too, had an active role in the case of the young man who was beaten to death..... when I arrived at the office and this young man was already lying dying on the floor, Zentai was present together with Nagy, and he was checking the dying man's pulse... it was Zentai who told me that he had arrested this young man in the street and had brought him to the barracks.' Subsequently Mader claimed that he had gone home to his family at around 4pm on that day. 'Of the company officers only Zentai stayed on..... I returned to the barracks only at 11pm..... Zentai and Nagy were also there..... I then caught sight of a man who was lying on the floor and rattled.'

Imre Zoltan, a forced labourer, recalled being taken... to the unit's office, where Mader, Nagy and Zentai were present..... according to his account, Mader called the rattling sounds of the dying man 'music'..... Sergeant Jozsef Monori stated that 'Nagy and Zentai brought out a dead body..... During the ride [to the Danube] they discussed that they shouldn't have hit the boy as hard as they had..... they took the dead body and threw it in the Danube.' Janos Mahr identified 'the young man who had been brought in and who had been maltreated by Nagy and Mader' as Peter Balazs. Mahr's statement includes Zentai's name in several places, but wherever the name appears, the letter X has been repeatedly typed over it. Vamos thinks this may mean that Zentai's name was mentioned at Mahr's interrogation, but that Mahr did not remember him.[\[57\]](#)

Zuroff has claimed that 'witnesses' will prove that Zentai was in Budapest at the relevant time.[\[58\]](#)

Aarons has asserted in an opinion article in *The Australian* that 'the case against Zentai... indicates that he took part in the systematic persecution of Jews..... *The Australian's* investigation of Zentai in 2005 uncovered evidence that he had been involved in systematically rounding up and torturing Jews. The evidence included the testimony of witness Jakob Mermelstein.'[\[59\]](#)

Overall it is my view that a *prima facie* case does exist against Zentai. There is a reasonable degree of probability, but not certainty, that it is true.

### **The Case for Zentai**

There are two senses in which one can refer to the case for Zentai. The first concerns whether or not he is innocent of the charges that have been levelled against him. The second concerns whether or not he should be extradited to Hungary and required to face a trial there. In my view it is impossible at this date to determine beyond all doubt whether Zentai is or is not guilty. No court, whether in Australia or Hungary, can do that. Too long a period has elapsed since the alleged actions; and there is inadequate opportunity for full and complete research into documents and questioning of witnesses. From the point of view of British and Australian law, however, he must be granted the presumption of innocence. His pursuers appear to be so convinced that he is guilty that they overlook a number of important aspects of the present situation.

There are many arguments against the proposal that he be extradited to face trial. Taken as a whole they seem to me to amount to an overwhelming case that he should be released from custody and allowed to pass his remaining years in Perth, in freedom, and with his family around him. If he really is guilty, then the matter should now be left in the hands of the Almighty.

Zentai, now ninety, is too old for it to be ethically right and humane to place him on trial, especially considering the complex nature of the issues, the fact that he would be removed from his family and their support and the fact that the trial would occur in a language he has not used as his first language for many decades. Critics might argue: at what age, then, do we draw the line? I am inclined to suggest that retiring age might be a good yardstick, particularly if we take it to be seventy rather than the sixty-five nominated by Bismarck, because of the increased life expectancy that people now have compared to a century ago.

People are fairly frail at eighty, very frail at ninety. Nonagenarians do not have the nervous strength and resilience to cope with protracted legal proceedings.

Zentai's health is also poor. In 2007 it was reported that he had become 'too frail to prepare his meals' and had 'been admitted to hospital twice in the past month with heart problems' according to his children. He was said to be unsteady on his feet.<sup>[60]</sup> In 2009 he was reported to suffer from 'an irregular heart condition called symptomatic paroxysmal atrial fibrillation'.<sup>[61]</sup> In 2011 the news came that he had had a second stroke on 13 May, having had an earlier one in 2010.<sup>[62]</sup> Some doubt must remain about the exact state of Zentai's health, as it is reasonable to suppose that he and his family would tend to paint as black a picture as possible. However, from what has been reported so far, a very strong presumption exists that it would be seriously inhumane to send a man as old as this for trial, given he has ill health.

Just as the most serious evidence against Zentai is witness statements from communist-run courts in Hungary in 1947 and 1948, so the most important argument in his favour is that such statements may be tainted and thus unable to be fairly relied upon. Vamos touched briefly on this in his article: 'The witness testimonies relating to the case should be treated with care. Evaluating statements made sixty years ago to the police, the Department of Military Politics and the People's Court is complex – not least because most witnesses are now dead. Also there were unusual circumstances in the Hungary of the late 1940's, where the communist-dominated government placed considerable store on "social justice" – and established special procedures in which emotions played a significant part. Furthermore, the interrogators, investigators and prosecutors were largely under communist control. They were frequently manipulated for party-political purposes.'<sup>[63]</sup> Concerning certain testimony by Nagy, Vamos notes that this witness 'was already imprisoned and awaiting trial. Subsequently, Nagy stated that he had given his testimony in accordance with the interrogator's wishes, because he wanted to get away and had been promised contact with his family.'<sup>[64]</sup>

In its edition of 14-15 May 2005 *The Australian* claimed that it was publishing documents which established that Zentai 'was living in Budapest' at the time of the alleged murder. However, close scrutiny of the reproduced material showed that it merely tended to indicate that he was in Hungary until March 1945.

One of the most profound political commentators in Australia in the second half of the Twentieth Century was the Catholic anti-communist B. A. Santamaria, president of the National Civic Council, a man so highly respected in conservative quarters that the then prime minister, John Howard, made a special trip to his deathbed in 1998. Santamaria, during the controversy over 'Nazi war crimes' in the 1980's and 1990's was emphatic that evidence emanating from the Soviet Union or its satellites, one of which was Hungary, could not and should not be trusted in any trials.

Count Nikolai Tolstoy in 1988 asserted that 'the validation of evidence emanating from the Soviet Union requires not merely authentication of specific documents or assessment of the reliability of individual witnesses, but also a deep understanding of Soviet history and government such as is possessed by few jurists.'<sup>[65]</sup>

Manne was even more scathing about communist jurisprudence: 'Soviet rules of procedure..... have included threats to witnesses..... defense counsels have had their cross-examinations severely curtailed by the Soviet procurator in charge of proceedings..... the atmosphere... is said to be intimidatory towards witnesses..... witnesses have been prompted by the Soviet procurator in giving answers to critical questions..... [there is at times] no means available for defense counsel to check the identity of witnesses..... [as regards] documents... on several occasions courts have been presented with

photocopies and not originals for testing..... forensic experts for the defense have not been allowed to conduct full investigations on the documents..... access to Soviet archives has been refused. The Soviet Union routinely passes on only the documentary evidence it chooses..... KGB forgery [involves]..... an unending production of disinformation documents.' [66]

Shortly after World War Two, in 1948, a British jurist (and former member of the British Union of Fascists), F. J. P. Veale, published a profound study of the war crimes controversy, *Advance to Barbarism*. This, together with his subsequent book, *Crimes Discreetly Veiled*, was republished by the Institute for Historical Review in the USA in 1979 as *The Veale File* in two volumes. Veale pointed out that at the Nuremberg Trials 'according to the Russian judge, General Nikitchenko, the only duty of the court would be to rubberstamp the decision of the politicians at the Yalta Conference that the prisoners were guilty.' [67] Veale stressed that Marxist philosophy, as practised in the U.S.S.R., led to a practice fundamentally opposed to the traditional justice of Britain and other Christian nations. 'In a political trial in Soviet Russia, the judges and the prosecuting counsel together form a team..... The speeches for the prosecution are political manifestoes, designed to justify the action of the government in instituting proceedings and are directed... to the outside public.' [68] Veale quoted F. Beck and V. Godin (*Russian Purge*, Hurst & Blackett, London, 1951): 'The authors, themselves prominent Soviet citizens who were victims of the Great Purge of 1936-1938 but escaped with their lives, express surprise that the delusion should persist in the West that, in Soviet Russia, there exists any necessary connection between a man's arrest and any particular offence alleged against him.' [69]

As to the capacity of communist governments to produce false or tainted evidence for political purposes, another authority is Chapman Pincher, who published a whole book on the topic in 1985. [70] In his introduction Pincher wrote: 'To Western politicians war is the continuation of politics by other means. To the Politburo, with its ideological compulsion to invert reality as free societies see it – which is what I call the "upside-down ploy" – politics is the continuation of war by other means. These other means, now known in the Soviet jargon as "active measures", form the major subject of this book. They comprise sophisticated techniques of deception, disinformation, forgery, blackmail, subversion, penetration and manipulation, the insidious use of agents of influence, the organisation of mass demonstrations with the promotion of violence and other criminal acts and even military violations. The scale on which this underhand offensive is being relentlessly pursued in the Politburo's game-plan against countries of the free world... is far greater and much more menacing than is generally appreciated, especially as so little is being done to combat it.' [71]

What if the whole story about Peter Balazs being snatched from a tram, beaten, tortured and killed at the Arena Utca barracks, his body then being dumped in the Danube, was from the start a fabrication made in a communist-dominated state, in an atmosphere of post-war political hysteria, for purposes of revenge? What if the US legation was correct in 1948 in not handing Zentai over to face pseudo-justice in an effectively Soviet-controlled state? What if Balazs's father was simply in error in believing the story of his son's murder? What if all eleven witnesses were lying at the trial of Nagy, some for political propaganda purposes and others to ingratiate themselves with the communist government? Hundreds of respectable publications, including novels by Arthur Koestler, George Orwell and Alexander Solzhenitsyn, have testified to the corruption of justice under communism.

Moreover, some of the ancient testimony is favourable to Zentai. His military commander, Mader, on one occasion blamed a fellow soldier, not him. 'In a translated transcript of Mader's interrogation at

Budapest's military political office on 15 November 1945, Mader points the finger of blame for Balazs's [murder] at only one person, Nagy.' This transcript was discovered in a Hungarian government archive by Zentai's son, Ernie Steiner.[72] As a correspondent in an online discussion noted, 'the evidence is very old and was taken from suspicious witnesses who may have been trying to displace their guilt on the absent Zentai.' [73] And Zentai's lawyer, Denis Barich, stated on 22 October 2009 that witness statements against him by two of his former army colleagues who were convicted over Balazs's death... were probably obtained under coercion and were tainted. 'Maybe these soldiers were tortured and they were fearing for their own lives, maybe they were pointing the finger at somebody else.' [74] Zentai's son also raised the possibility that Zentai may have been implicated in those testimonies 'as payback for having given evidence against a superior officer who had deserted.' He may have been a scapegoat. [75]

This leads to the key question of whether or not a fair trial is now possible. A number of factors suggest that it is not.

In 2010 McCusker argued that another ground of appeal for Zentai was that any trial would be unfair, 'because there are no living witnesses who can testify', which struck him as 'pretty dangerous'. [76] The result of the trial of alleged Canadian war criminal Imre Finta, which ended on 25 May 1990, supports this position. Douglas Christie, the successful defense barrister, had this to say in his introduction to Keltie Zubko's account of that case: 'The Finta case demonstrated that a careful examination of survivors' testimony reveals a wealth of contradictions casting serious doubt on the whole story..... Cross examinations remain the only real weapon for the defense in these cases. This is so because all the mechanisms of investigation are in the hands of the prosecution, not to mention enormous money to do it all. In Israel or in Hungary, the state simply assisted the prosecution for years before the trial. They were not obliged to assist the defense at all by the agreement negotiated with Canada by which access to Archives and to all records was assured.... My opponents know that fearless cross examination within the existing bounds of the law, allows the defense to level all those unfair advantages of the Crown. It is a skill which only comes with experience, only possessed by a few lawyers, and then only when they are unafraid and at their best.' [77]

Zentai's lawyer Denis Barich has claimed that cross examination is an enshrined right in the International Covenant on Civil and Political Rights. 'Potentially, if Australia does extradite Zentai under these circumstances, [it] could be in breach of the covenant, which is serious.' [78]

That witness statements in such cases are unreliable has been shown in other cases, notably those of Frank Walus and John Demjanjuk. In 2005 *The Australian* published a story about the collapse of what it then called 'the last big war crimes trial in Germany'. [79] A German judge had released 88 year-old Ladislav Niznansky on the grounds that there was 'insufficient evidence to convict him'. The witnesses were too aged; their memories too erratic; their testimony broke down under cross examination; the paper trail was inconclusive; and evidence might have been manipulated by communist authorities after World War Two to falsely incriminate Niznansky because of his resolute anti-communism.

In 2008 Hungarian military prosecutor Tibor Acs 'conceded there were no living witnesses to the brutal beating of Balazs.' [80] His body was never recovered. No proof of the alleged crimes of Nagy and Mader was found. All this means that a strong element of doubt hangs over the whole tale. Zentai was entitled to a fair trial, if one could be staged, in 1948. However, there is a strong presumption that the reason he was not surrendered to the Hungarian authorities is that the US officials had no confidence that he would get a fair trial under the communists.

Another reason a fair trial of Zentai cannot now be provided in Hungary is the unequal contest that would be involved. Extremely aged, frail and with little energy, he would face opponents (the international Jewish lobby) vastly more wealthy and able to unduly influence governments. In 2009 Zentai stated that Hungary 'was far from a democratic country' and that he was worried about the quality of treatment and representation he could expect there. [81] In 2010 *The Australian* reported on internal dissent in Hungary. [82] 'In Hungary, anti-establishment attitudes sky-rocketed from 12% to 46% of the population between 2003 and last year because of striking dissatisfaction with political institutions and democracy itself.' (The data came from the Political Capital Institute.) In 2010 McCusker argued that Zentai's life would be threatened if he were detained in the 'deplorable' conditions of a Hungarian prison. [83] This fear would appear to be justified, in view of Italy's treatment of Canadian extradited 'Nazi war criminal Michael Seifert. [84] Two recent pieces of news cast further doubt on whether a fair trial could occur in this nation at this time. The first was the imminent visit of the Hungarian prime minister to Israel. The second was the arrest in Budapest of a 97 year-old man, Laszlo Csatory, on a war crimes charge. [85]

On 2 March 2009 Zentai passed a polygraph test conducted by Gavin Wilson from Australian Polygraph Services. In interviews, Wilson expressed 'no doubt' that Zentai was telling him the truth. [86]

There is some doubt about when Zentai left Budapest in 1944. He claims he departed on 7 November. Other unit members have stated that the unit departed on 8 November, 11 November and sometime between 10 and 15 November. With such confusion, it seems doubtful that Zentai can be proved incorrect at this stage. In any case, testimony exists in support of Zentai's claim. In 2005 *The Australian* reported that Julia Nikoletti, 90 year-old sister of Zentai, had provided 'a rare first-hand account that places him sixty kilometers away from the scene of the crime around the time it was committed.' [87] Mrs Nikoletti had provided a signed statement to Australian Justice Minister Chris Ellison, saying that she and Zentai left Budapest for Hanta, sixty kilometers west of the capital, with his military transport unit in the first few days of November 1944. She added that the other two soldiers who were later gaoled for crimes, including Balazs's murder, stayed in Budapest and travelled to Hanta by bus two days later. Unlike Zentai, she could not remember the exact date she and he left Budapest. In 2009 *The Australian* reported Mrs Nikoletti's death. [88] She would no longer be available as a witness for Zentai. Her death 'left just one known witness who could verify Zentai's claim that he led a convoy out of Budapest on 7 November 1944..... That witness – octogenarian Stefi Fonyodi of Budafok, Hungary – has revealed that she cannot remember the date on which she left Budapest with Zentai..... Both women backed Zentai's claim that the two fellow soldiers later convicted of Balazs's murder... stayed behind.' It might be argued that Nikoletti was family, so that her testimony could be biased; but her admission that she could not name the date suggests it may well be the truth. At any rate, overall, there is serious doubt as to whether Zentai was in Budapest at the time of the alleged murder; and it seems doubtful that certainty can now be obtained either way.

Zuroff appears to be too ready to treat the People's Court of communist-dominated Hungary in 1947-1948 as 'a court of law' without conceding the legitimate doubts about such 'justice', and he also seems to be too easily confident of the documentation, stating that it is 'reliable', but not explaining why. [89]

Not only is there no evidence that Zentai was a Nazi, but it is also clear that he did not hide after leaving Hungary and entered both Germany and later Australia by fully legal means. He then lived in Australia under his own name for more than fifty years. [90] That looks like the behaviour of an innocent man.

Moreover, the Zentai family have produced correspondence that shows that the Hungarian Government knew where Zentai was living in Perth for several decades after his arrival in Australia. No extradition requests were made during this time.<sup>[91]</sup> This implies, though it does not prove, that Zentai had a clean record in Hungary's eyes during that period.

It has been reported that an elderly Sydney man who was at the Budapest barracks in 1944 has provided a statement saying he remembers Mader and Nagy being involved in the murder, but not Zentai.<sup>[92]</sup>

The legality of Hungary's request for extradition is also in doubt. "Zentai's lawyers today argued that the nominated offence of a war crime was not an offence in Hungary in 1944, and they questioned whether it could qualify as an extraditory offence."<sup>[93]</sup>

The Hungarian authorities have not explained why they could not question Zentai in Australia under the treaty on criminal co-operation.<sup>[94]</sup> In 2009 a letter from the Leader of the Military Panel in Hungary, Dr Bela Varga, confirmed 'there is no criminal proceeding at present' against Zentai, and said he was only wanted for questioning 'in the interest of the investigation'.<sup>[95]</sup> As noted above, the Hungarian authorities seem to have changed from this position later, when it appeared that it might cause the request for extradition to be denied. Such inconsistency calls into question the impartiality of these authorities.

It can be seen that during the past seven years Zentai has had to fight in a limited context, possibly to his disadvantage. His son, Ernie Steiner, has pointed this out: 'We were always involved in these really narrow arguments relating to the conditions of extradition and the definitions and so forth. For the last four years that was the only avenue open to my father.'<sup>[96]</sup>

It seems clear to me that, taking all these factors into consideration, the case against approval of the extradition of Zentai to Hungary is now overwhelming, and that any informed, impartial and reasonable observer will agree.

### **The Significance of this Pursuit**

The pursuit of Zentai and, more generally, the campaign in many countries during the last three decades to 'bring to justice' alleged 'Nazi war criminals', raise many significant issues.

One is the question of the bias in favour of the accusers of the major mass media. There is much evidence to suggest that the 'fourth estate' has actively assisted the pursuers, while offering no balancing assistance to the defendants. For example, the three major Melbourne newspapers during the past seven years have published a number of opinion articles hostile to Zentai,<sup>[97]</sup> but none favourable to him. *The Australian* has published editorials suggesting that it could well be correct to extradite Zentai<sup>[98]</sup> and indeed that he should be extradited.<sup>[99]</sup> Zuroff himself has provided an account of media assistance for the campaign: 'Now the question was whether Zentai was still alive and healthy enough to stand trial. I enlisted the help of a sympathetic Australian investigative journalist for the task..... his [Zentai's] health had still to be verified. For this task, we teamed up with Channel Nine News in Australia which sent a team to film Zentai without his knowledge.'<sup>[100]</sup> In 2005 a journalist for *The Australian* reported that evidence against Zentai had been 'uncovered and translated' by the newspaper.<sup>[101]</sup>

In 2007 *The Australian* stated that it had ‘unearthed’ six witness statements against Zentai in June 2005.<sup>[102]</sup> In 2008 I wrote to each editor of the three major newspapers read in Melbourne pleading for greater coverage of Zentai’s side of the story<sup>[103]</sup>, but none of them replied and subsequent events showed that my appeal had clearly fallen on deaf ears.

*The Australian* did occasionally publish letters by me sympathetic to Zentai. Very few if any letters from that standpoint appeared in *The Age* or the *Herald Sun*. A strong presumption exists that *The Australian* and Zentai’s pursuers worked in tandem throughout this period, while the other two papers minimised coverage of the case. By regularly reporting on developments in the struggle in the way it did, *The Australian*, in particular, gave the impression that such a political phenomenon was an entirely normal and acceptable matter, rather than something morally atrocious. It perhaps habituated readers to accepting the abnormal as normal – on the principle ‘What I say three times is true!’.

In 1955, while studying modern European history in my penultimate year of secondary education, I read the following sentence about events in France after Napoleon Bonaparte had escaped from exile on the island of Elba and was returning to Paris at the beginning of his last hundred days of liberty: ‘Ere long Louis XVIII was in flight, while the French newspapers underwent a rapid change of tone – “the scoundrel Bonaparte” becoming first “Napoleon”, then finally “our great and beloved Emperor”.’ This supine knuckling under to political power was, I thought at the time, morally unimpressive, to say the least; but one suspects that today’s mass media are tarred with the same brush, which makes the struggle for justice and freedom all that much harder.

Another significance of the belated campaign to punish Nazi war criminals found in Australia is the impression given that the pursuers are seeking a scalp or seeking Australia’s humble submission beneath the yoke. For example, Aarons complained in 2005 that Australia ‘is the only Western country that took a significant number of Nazis but which has had no success at all in any type of prosecution.’<sup>[104]</sup> In 2007 *The Australian* reported on dissatisfaction in certain Jewish heads about Australia’s action in this context: ‘The Simon Wiesenthal Centre, which is dedicated to finding suspected World War II criminals and helping to prosecute them, gave Australia a fail mark in its annual worldwide report last year. The centre has been highly critical of Australia for failing to track down and prosecute “at least several hundred” Nazi war criminals believed to have found refuge here. “Australia remains the only Western country of refuge which admitted at least several hundred Nazi war criminals and collaborators, which has hereto failed to take successful legal action against a single one,” Dr Zuroff reported in 2005. “Numerous attempts have been made... to convince the Australian authorities to adopt civil remedies – denaturalisation and/or deportation – to deal with Holocaust perpetrators in the country, but the Government has refused to do so.”’<sup>[105]</sup> Actually it is not so much that Australian governments have been unco-operative, as that Australian law, based in the Constitution and British legal tradition, whose integrity is matched by few other legal systems in the world, has offered high quality protection to persons accused.

It is in this context that we should understand the constant refrain that ‘if Zentai is sent back to Hungary, he will become the first accused war criminal to be extradited by Australia.’<sup>[106]</sup>

In 2009 Zuroff commented: ‘It’s fairly clear this will be the last opportunity Australia will have to take successful legal action against a war criminal from World War II.’<sup>[107]</sup> In 2010 he continued the refrain: ‘This means Australia has totally failed on the Nazi war crimes issue.’<sup>[108]</sup> ‘Efraim Zuroff... said if the Commonwealth did not appeal, a serious injustice would occur. “Australia until now has given a perfect



example of how not to achieve justice, how to allow all sorts of legal technicalities to prevent someone who is accused of the worst crime imaginable to escape being brought to trial.” [109]

A touch of passion can be seen in his exaggerated description of the alleged crime. The problem with this aspect of the Zentai case and the ‘Nazi war crimes’ campaign generally is that a presumption exists that the pursuits are more about the imposition of Jewish power on nations and the insistence that all must toe the line, rather than just about justice. They then appear as requirements of Jewish political propaganda and power-seeking, rather than purely ethical activities.

A third important significance of the Zentai case and associated phenomena is that it seems to have exposed a rather unprincipled willingness of Australian governments to assist the campaign rather than do everything in their power to protect the legitimate interests of their own citizens. Are these governments, like the major mass media, secretly subject to a Jewish *imperium in imperio*? On 18 January 2005 the Attorney-General, Phillip Ruddock, representing the then Coalition Liberal-National government, confirmed that Australia had an extradition treaty with Hungary, but then added: ‘In fact we’ve just signed an extradition treaty with Latvia which given the sources of allegations in relation to war crimes, we are increasingly covering the field with relevant treaties for mutual co-operation in investigating matters for extradition.’ [110] Did his poor English on air reflect a secret unease?

The 1989 amendment of the War Crimes Act was followed by a further amendment to remove the requirement, where extradition is sought by a foreign country, of proof of a prima facie case that a relevant offence has been committed. Distinguished barrister Dr I. C. F. Spry QC was one critic of that change, which he described as ‘regrettable’. [111]

In 2009 Zentai’s son, Ernie Steiner, raised a very pertinent question: ‘When you read the Minister’s statement and he places such emphasis on Australia’s international obligations at the expense of protecting an Australian citizen, I understand how political this decision is.’ [112] A presumption exists that, in order to avoid opprobrium for engaging in manifestly inhumane and unjust behaviour (enabling such an extradition), Australian governments have sought to shelter behind extradition treaties and international covenants which they themselves signed in the first place. It appears as a convenient shedding of responsibility.

In 2010 David Weber pointed to further apparent failure of the Australian Government to protect its own: ‘Zentai has said he’s quite willing to answer questions in Australia if Hungary were to send people to speak to him. There’s no evidence that any Australian minister has attempted to facilitate this, preferring to let the extradition process “run its course” ..... It seems the Federal Government has been quite willing to allow an Australian citizen to spend his life savings battling a case that could have, at any time, been halted by the minister responsible.’ [113] And McCusker had this to say: ‘You look at all that [the finding by the Commonwealth Director of Public Prosecutions that Zentai had no case to answer] and say what are you doing extraditing to a Hungarian prison for purposes of interrogation an Australian citizen who’s been such for half a century..... You have to question, as an Australian citizen and taxpayer, what’s motivating the Government to do this?’ [114] As long ago as 1988 the distinguished Catholic political commentator B. A. Santamaria noted that the Australian Government of the day, the Hawke government, had ‘accepted the view that all evidence, including Soviet evidence, should be equally admissible’ and pointed out how the record of NKVD and KGB behaviour made such a position morally and practically unacceptable. [115]

In their actions over the last twenty-five years or so in this context, Australian governments do not seem to have been truly representing their own constituency. A very strong presumption exists that they have proved obsequious to undue Jewish influence.

Another aspect of the case is that it may be tending to make easier in the future extraditions of Australian citizens for ideological and/or political reasons, rather than purely as a matter of justice. As noted earlier in this essay, one of the grounds barring extradition from Australia would be if it were sought 'for political reasons'. The Zentai team, judging by news coverage, do not seem to have tried to use this point as a defense; but a strong case can be made that the pursuit of Zentai is tainted by extra-judicial agendas. Moreover, one can foresee that in the future, when the supply of 'Nazis' runs out, the pursuers might adjust their aim on to so-called 'Holocaust deniers' (in accordance with UNO resolutions) or other 'politically incorrect' persons. The Australian media do not seem to have chosen to investigate this aspect of the Zentai case.

It can be argued also that the extradition of Zentai would constitute a grave moral blot on the honour and integrity of Australia. Indeed, from the time in 1986 when I first heard the news of the extradition of an 86 year-old man, Arturo Artukovich, to Yugoslavia, to face 'war crimes' charges – under a communist government! – I immediately thought of the horror with which the ancient Greek tragedians viewed evil and impious acts and the conviction they expressed that all such behaviour must sooner or later be expiated, whether willingly or not. This is another aspect of the Zentai case which the major media have chosen not to explore.

As noted above, there is good reason to question whether the allegedly 'democratic' Australian governments have really been acting in a truly representative manner in facilitating this manhunt. In an unpublished email to the *Herald Sun* in 2007 I endeavoured to make this point: 'It is not "the country" of Hungary that "wants to try Charles Zentai" ("Alleged war crim loses bid"), although the Hungarian Government may officially have claimed such. We can be sure that the vast majority of Hungarians – and of Australians... - have no desire whatever for such a farcical show trial.' [\[116\]](#)

Yet another significant aspect of the Zentai case is the extraordinary silence about it from ordinary Australians and, especially the intellectual elite of our nation, including civil libertarians. Of course, it is possible that the major media have suppressed letters and articles submitted on his behalf, but that is not the full explanation. During the period 1986 to 1993, when Robert Greenwood's Special Investigations Unit was closed down, there were quite a number of intellectuals and others who published statements in defense of those accused. Spokesmen from the communities of those born in Eastern European nations then under communist rule were prominent in this; but from 2005 there has hardly been a voice raised to defend Zentai's interests. This moral apathy does not bode well for freedom in the Australia of the future. One has the impression that many intellectuals are willing to defend justice and free speech, while making sure at the same time that nothing they write or say could in any way be construed as 'anti-Semitic'. What does this say about the true political condition of Australia?

The question of what other agendas are being served by the pursuits also needs to be considered. In 2008 the Jewish former editor of *The Age*, Michael Gawenda, wrote in an opinion article that the campaign to bring Zentai to justice was 'as much about recognition of what was done as about delivering justice'. He saw Zentai's crime as being 'part of the annihilation of millions of Jews during World War II'. [\[117\]](#) In 2011 there was a report of Zuroff, 'the world's chief Nazi hunter', touching down

in Western Australia 'to educate the community over the importance of never forgetting the Holocaust' and help 'bring closure to victims of the Holocaust'. Obviously referring to the Zentai case, he stated: 'Ninety-nine per cent of the people who committed the crimes of the Holocaust are normative people. They did not commit murder before the Holocaust, before World War II, they did not commit murder after World War II.' [118] In its editorial on 13 June 2005, titled 'Ellison must send Zentai to Hungary', *The Australian* began its argument by stating: 'The Holocaust is the defining atrocity of the 20th Century', a rather peculiar assertion.

It seems clear that promotion of the Holocaust dogma is one of the chief motivations of the campaign to 'bring to justice' alleged 'Nazi war criminals'. This is used as a justification of the obviously selective nature of the whole operation, other 'war criminals' being left alone. Part of an unpublished letter I sent to *The Australian* on 13 June in response to its editorial read as follows: 'That *The Australian* is itself biased in this great issue is suggested by your clichéd opening that 'the Holocaust is the defining atrocity of the 20th Century' (a curiously vague statement), which needs to be related to your complete refusal to publish the news of the deportation of Holocaust revisionist Ernst Zundel from Canada to Germany in March. An alleged historical event which is not allowed to be openly discussed from all points of view in the public forums is immediately open to grave doubt; and this is more so when its challengers are judicially punished and official silence about their punishment has become the order of the day. Everything in the Zentai case smacks of conspiracy and manipulation by a semi-secret Establishment for which you are acting as publicity agent.' [119]

This touches on an international issue of the gravest import. It is a commonplace now to note that one can, in Western nations, engage in adverse criticism of Christianity and Islam, Jesus and Mohammed, without fear of incurring legal proceedings and the status of social pariah. It is not so with the Holocaust dogma. This appears to be virtually proof positive that these nations, including Australia, already live under a semi-tyranny imposed by an *imperium in imperio*. Unfortunately, Zentai's defense team could not raise matters such as this in their struggle to protect their client, partly because of their irrelevance to legalities about extradition, but also partly because they would not have been responded to fairly and might have excited odium towards Zentai.

Yet another aspect of the Zentai case is the apparent refusal, or inability, of his pursuers to consider the legal and moral objections to their campaign. This is typified by a report that Zuroff in 2010 said that Zentai's age was irrelevant and the notion that he would be treated harshly in Hungary was ludicrous. [120] I have not seen any admission by the pursuers in the press that findings of post-war communist courts are inherently untrustworthy.

Yet another aspect of the Zentai case is the suggestion that a kind of blackmail may be being applied to Australia (and perhaps Hungary) in the matter. In 2009 a Monash University law school senior lecturer, Gideon Boas, a strong advocate of war crimes trials generally, stated: 'We're [Australia] going to start to be perceived internationally, if not internally, as being a country that's not serious about prosecuting war crimes.' [121] Boas, presumably a Jew, is a former senior legal officer at the International Criminal Tribunal for the former Yugoslavia. *The Age* has published articles by him in favour of war crimes trials. [122] Remarks such as that of Boas make one wonder about other possible threats that may have been made to governments behind the scenes.

Another aspect of the Zentai controversy is the relative lack of discussion in the press of the political conditions in Hungary in 1944, the context in which the alleged murder of Balazs took place. Ever since

1933 the nations of eastern Europe had lived in a lose-lose situation where they had a choice of acquiescence to Soviet tyranny or Nazi tyranny. Naturally there were good persons in both camps, those choosing the Soviet, those choosing Hitler. Neutrality was an ideal, but not an option. Jews, in general, were likely to prefer the Soviet, partly because communism had always attracted politically idealistic Jews and partly because of Nazi anti-Semitism. Thus in 1944 anti-Soviet Hungarians would have tended to see Jews not so much as a persecuted minority as a dangerous sub-group of enemies – and not without some justification. David Irving in his history of the 1956 Hungarian revolt, *Uprising*, explained how he had been surprised to find that many of the rebels saw themselves as freeing Hungary from Jewish, rather than merely communist, domination. In this context a point raised by Santamaria is worth quoting: ‘What happened in Romania [in 1939-1941], also occupied by the Soviet forces, is detailed from a Jewish source by the Chief Rabbi of Romania, Alexandre Safran. In *The Times Literary Supplement* (8 July 1988) review of Safran’s work (*Resisting the Storm: Romania 1940-47*) Jessica Douglas-Home writes: “His narrative – which is neither bitter nor vengeful – also sets the destruction of Romanian Judaism in the context of the wider assault on such democracy as pre-war Romania possessed; begun by the Nazis, it was subsequently carried on by a tiny handful of communists, 1,100 to be precise – directed from Moscow. For Safran there was both pain and paradox in the fact that 900 of the 1,100 were lapsed Jews.’ [\[123\]](#)

It is legitimate to wonder exactly what were the political affiliations of Dezsó Balazs and his sons, as well as the nature of their actions in those critical months in 1944 as invasion by the Soviet Russians came closer and closer. It would also be interesting to see clearly what kind of pressures Zentai and his fellow soldiers in the Hungarian Army were under. Possibly facts helpful to Zentai’s defense might emerge; but now it is probably too late to find out.

One final point concerns the very legitimacy – or lawfulness – of war crimes trials generally. This point was raised in 1970 by Laurens van der Post, who had been a prisoner of the Japanese in the Dutch East Indies and who owed his life to the dropping of the atom bombs on Hiroshima and Nagasaki. Despite the sufferings he had incurred, van der Post wrote: ‘I myself was utterly opposed to any form of war trials. I refused to collaborate with the officers of the various war crimes tribunals that were set up in the Far East. There seemed to me something unreal, if not utterly false, about a process that made men like the War Crimes Investigators from Europe, who had not suffered under the Japanese, more bitter and vengeful about our suffering than we were ourselves.

‘There seemed in this to be the seeds of the great, classic and fateful evasions of the human spirit which, I believe, both in the collective and in the individual sense, have been responsible for most of the major tragedies of recorded life and time and are increasingly so in the tragedies that confront us in the world today.

*‘I refer to the tendencies in men to blame their own misfortunes and those of their cultures on others; to exercise judgement they need for themselves on the lives of others; to search for a villain to explain everything that goes wrong in their private and collective courses.....*

*‘I felt strongly that, if war had had any justification at all, it was only in the sense that, at its end, it should leave victors and vanquished free for a moment from the destructive aspects of their past.....*

*‘It was as if war today were a bitter form of penance for all our inadequate yesterdays. Once this terrible penance had been paid, my own experience suggested, it re-established men in a brief state of innocence*

*which, if seized with imagination, could enable us to build better than before. To go looking for particular persons and societies to blame and punish at the end of war seemed to me to throw men back into the negative aspects of the past from which they had been trying to escape, and to deprive them of the opportunity they had so bitterly earned in order to begin afresh.....*

*'Far from being an instrument of redemption, which is punishment's only moral justification, it is an increasingly self-defeating weapon in the hands of dangerously one-sided men..... Forgiveness, my prison experience had taught me, was not mere religious sentimentality; it was as fundamental a law of the human spirit as the law of gravity..... if one broke this law of forgiveness, one inflicted a mortal wound on one's spirit.'* [\[124\]](#)

In his monumental study of war crimes trials Veale noted how in the Tokyo trials in 1947-48 the Indian representative, Mr Justice Rahabinode Pal, delivered a 1900-page dissenting judgement in which he laid down that 'the farce of a trial of vanquished leaders by the victors was itself an offence against humanity' and was therefore in itself a war crime. [\[125\]](#)

In 1988 I struggled in vain to have this point of view properly and fully discussed in the major newspapers and other public forums in Australia. In 2012 I cannot help wondering if the main reason for the proliferation in recent years of war crimes trials under the International Criminal Court or other international tribunals is not arranged in order to ensure that when a world government (desired by certain elites) is in place, anyone leading a revolt against that tyranny will know that, if defeated, he will face a war crimes tribunal and condign punishment. There may be a wolf in sheep's clothing in this development.

Sherlock Holmes was right in his comments quoted as the epigraph to this essay. Eighteen year-old James McCarthy looked just as clearly guilty from the initial evidence as Charles Zentai looks from the evidence of the People's Court of Budapest in 1947-48; but close investigation revealed that McCarthy was completely innocent. Perhaps Zentai is too. And it is far too late to arrange a fair trial for him. Let us hope that Australia eventually sets him free, preferring not to risk unjust punishment of an innocent man rather than gain the plaudits of a powerful minority lobby and associated benefits.

## **Epilogue**

Shortly after the above account was completed, *The Age* on 16 August 2012 reported a High Court decision critical to Zentai's fate. [\[126\]](#) 'The full Federal Court said last year that the government could not decide to surrender Mr Zentai for an offence that was not a crime under Hungarian law when it allegedly occurred. The High Court upheld the decision by a 5-1 majority yesterday.' *The Age* noted that the judgement 'which ruled on a technical argument... brings to an end another episode in a long history of failed extradition bids.' It quoted Professor Ivan Shearer, author of *Extradition in International Law*, as saying that 'all of the other attempted extraditions of alleged war criminals have fallen foul of some or other procedural rule..... If Hungary had made its request on the basis of an alleged "murder", and not a "war crime" claim, the extradition might have been successful.'

Next day *The Age* discussed the decision in an editorial headed 'Zentai ruling joins litany of failure'. It wrote: 'The judgement... brings into uncomfortable focus Australia's lack of success both in extraditing other accused war criminals and securing war crimes prosecutions in domestic courts..... Australia has

been anything but proactive when it comes to acting on war-crimes allegations against migrants who entered the country during the Cold War period and also in recent years.'

It seems a reasonable presumption to state that *The Age* was disappointed by the decision.

Only one reader's letter was published on the matter. [\[127\]](#) The writer misrepresented the High Court by asserting that 'it takes the view that in 1944 there was no such thing as a war crime.' He provided no reason for his opposition to the decision, but suggested some hypothetical implications of it.

As soon as the High Court decision was known I asked *The Age* opinion editor if she would be interested in a piece by me on the case and she said she would willingly consider it. Unfortunately, in the end, it was not accepted. I publish it here to show what sort of commentary on the Zentai story did *not* appear at this stage in Melbourne's leading newspaper. It is titled 'Zentai case decision a credit for Australian law' and subtitled 'Important principles of justice have been upheld'.

*Now that the High Court has ruled that Charles Zentai is not to be extradited to face a war crimes charge in Hungary, it is time to consider the significance of his case, as it has unfolded during the past seven years. The question of whether justice has or has not been fully done in this matter will probably never be resolved. The world will never know for certain whether Zentai did or did not participate in an unlawful beating to death of Jewish teenager Peter Balazs in 1944, or whether he engaged in other unjustifiable acts of brutal harassment of Jewish Hungarians while a Hungarian army officer. His family members naturally proclaim his innocence and no doubt believe in it; but they cannot be taken by others to know that with complete certainty. Efraim Zuroff and his colleagues in the Simon Wiesenthal Centre remain equally convinced that Zentai is guilty. Thanks to the father and brother of Balazs, who struggled for many years to ensure appropriate punishment for the man they believed to be one of his murderers, the Centre brought forward a credible case, based on testimony by a number of witnesses, both soldiers in Zentai's wartime unit, and Jewish forced labourers then under their supervision.*

*While Zuroff and others are entitled to be disappointed, it is not so clear that they are right to condemn either the Australian Government or the Australian justice system for failure to ensure that right has been done. Rather, the contrary seems to be the case. It is a very serious matter for a national government to surrender one of its citizens to another nation to face judicial proceedings. Thus great care has to be taken before allowing that surrender. This point is made in Section 65 of the High Court ruling, which notes that "it is well settled that the Executive requires the authority of statute to surrender a person for extradition and that the power cannot be exercised except in accordance with the laws which prescribe in detail the precautions to be taken to prevent unwarrantable interference with individual liberty." What this reminds us is that, far from the Zentai case having been "mired in the courts" ('Stunned as "war crime" ordeal ends, 16/8), it stands now on record as a fine example of the scrupulous ways in which our legal tradition operates to protect ordinary citizens, weak and vulnerable as they often are, from administrative error or wrongdoing.*

*There are other reasons for feeling glad, not sad, about the High Court decision. In the first place it appears clearly to have indirectly protected, if not directly upheld, Zentai's right to the presumption of innocence. By contrast, his pursuers seem too readily to have acted on a presumption of his guilt.*

*The principle of the presumption of innocence goes hand in hand with another cardinal principle of Australian justice, which is that an accused shall have a fair trial. For many reasons it has always been*

*very doubtful that Zentai would have enjoyed a fair trial, once extradited. Too many doubts exist about the integrity of the allegations against him, which were made in the infamous People's Court of Budapest, a communist institution operating in a period (1947-48) of post-war hysteria and recrimination. Indeed, the witness statements against him may have been obtained by torture. An Australian court is unlikely to have given credence to such evidence, but such is not so clear about a Hungarian military tribunal (which Zentai was to have faced), given the facts that Hungary chose to seek extradition on that basis and has recently arrested a man of 97, Laszlo Csatory, to face analogous charges. Moreover, documents necessary for Zentai's defense may have been lost or corrupted, and his accusers and other witnesses he may have needed are dead, so that cross examination, an essential for justice, would not have been possible.*

*There is another reason why we should feel glad about Zentai's victory. It would have been a moral atrocity to send overseas for such a trial a man so old and frail. We should remember the wisdom of the Greek tragedians of ancient Athens who showed, in the dramas about Electra and Orestes, that a search for justice can easily be corrupted into impious acts (as when they killed their own mother) motivated by blind revenge. Perhaps Laurens van der Post was correct in the postscript of his 1970 book Night of the New Moon that war crimes trials are in fact an ethically mistaken institution and that a spirit of mercy and forgiveness is better and in the interests of humanity and future generations, once wars have been concluded.*

Our national newspaper, *The Australian*, provided a more extensive and even-handed coverage of the High Court decision. On 16 August it published a front page news story, which included the comment that Australia's hunt for alleged Nazi war criminals since 1987 has cost 'tens of millions of dollars'. Efraim Zuroff was reported as saying that it was 'a terrible day for survivors of the Holocaust'. *The Australian* also published on 16 August a human interest report of the reactions of Zentai and his son, a comment by its Legal Affairs Editor, Chris Merritt, about the 'dreadful decision' and a full page news story by Paige Taylor and Nicolas Perpetch under the heading 'War crime case is halted'.

This last item noted that none of Zentai's accusers was alive and that there were doubts about the 'communist-controlled' courts of Budapest. An important statement was included by Mark Ierace, a former prosecutor at the UN International Criminal Tribunal for the former Yugoslavia. Ierace said: 'It seems the Australian Government's attitude in the Zentai case, to extradite regardless of the human rights issue of a fair trial, is prompted by a fear of being seen internationally as soft on suspected war criminals. If so, this is quite misguided..... It seems the only evidence against him were the confessions of two men tried in the 1950's for the crime, in which they named Mr Zentai as a co-offender. Both men resiled from their confessions, claiming they had been extracted under torture. The police station where they were questioned was notorious at the time for such practices..... Any trial in Hungary, or anywhere else in the Western world for that matter, would have been a sham.'

A week later *The Australian* published an opinion article by Efraim Zuroff entitled 'The case that broke the heart of a Nazi hunter'.<sup>[128]</sup> This included a rather remarkable appeal for the reader's sympathy, as follows. 'Another reason for the issue becoming personal was the active efforts of the Zentai children to prevent their father's extradition. All of a sudden, I found myself pitted against them in the fight for public opinion, with the odds heavily against me. They were an ostensibly normal Australian family trying to save their elderly father from prosecution for a crime committed decades ago in a foreign

country, where they claimed he would not get a fair trial. They were present at all the proceedings and always easily available to the local media.'

In response to this account I sent an email to the paper's Letters Editor as follows: 'Efraim Zuroff believes "the odds were heavily against him" in his attempt to have Charles Zentai extradited to Hungary to face "Nazi war crimes" charges. However, during the seven years involved (2005-2012) I do not recall seeing a single opinion piece favourable to Zentai's cause published in any of the three major newspapers read in Melbourne. By contrast, all three papers published opinion pieces favourable to his pursuers. *The Australian*, in particular, mentioned more than once that its own research had turned up evidence against Zentai, this leading to the impression that the paper was giving assistance to his opponents. Zuroff is correct that good coverage was given to the views and research of Zentai's own family, but these could easily be discounted as "biased by blood". Little or no effort was made to publicise the views of other Australians opposed to Zentai's extradition and the belated campaign of the "Nazi hunter".' Unfortunately *The Australian* did not publish this response.

Zuroff on 23 August also wrote, disingenuously I believe, that in the minds of Zentai's children he 'was responsible for the predicament the family faced', whereas 'of course, it was Hungary that had asked for Zentai's extradition.' That nation's request, surely, was only made as a result of strong inducement or pressure exerted by international Jewish agencies. It is most unlikely that the majority of Hungarians were behind it or even in favour of it.

*The Australian* did publish on 24 August one response to Zuroff – a letter by Robin Linke headed 'Nazi witch hunt'. It forms a good epitaph for the case: 'Efraim Zuroff's justification in pursuing Charles Zentai for alleged war crimes is flawed. After 70 years there is no way a court of law could find Zentai guilty beyond reasonable doubt. Despite millions of dollars spent over several decades not a single person has been successfully prosecuted. The passage of time long ago turned the pursuit of alleged Nazi war criminals into a witch hunt.'

Theoretically Hungary could submit to Australia a new request for Zentai's extradition, replacing the charge 'war crime' with 'murder'. Legal opinion is that, if so, such a request might be successful. It is to be hoped that Hungary will have the common humanity and good sense not to do that.

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#### Notes:

- [1] Robert Manne, 'A Case Against the War Crimes Act', in *The Report of the Symposium on the Proposed War Crimes Legislation in Australia*, Captive Nations Council of Victoria, Melbourne, 1988, p. 6.
- [2] Ibid, pp 6-7.
- [3] Tom Sherman, 'The Government's Position on the Bill', in *The Report of the Symposium on the Proposed War Crimes Legislation in Australia*, Captive Nations Council of Victoria, Melbourne, 1988, pp 14-15. (Sherman was deputy secretary of the Federal Attorney General's Department.)



- [4] Manne, op.cit., p 7.
- [5] Sherman, op.cit., p 14.
- [6] Manne, op.cit., p 9.
- [7] Anthony Endrey QC, 'The Overzealous Nazi Hunter', in *Hungarian Observer*, Victoria, April 1988, pp 4-5.
- [8] The highest court holding jurisdiction in Australia. (The hierarchy of courts involved in the Charles Zentai case, in ascending order, is as follows: (i) The State Magistrates Court exercising federal jurisdiction; (ii) the Federal Court on appeal from (i); the Full Federal Court on appeal from (ii); and the High Court on appeal from (iii).)
- [9] 'SA man being Investigated for alleged war crimes', *On Target*, The Australian League of Rights, Vol. 35, No. 29, Melbourne, 30 July 1999.
- [10] *On Target*, Vol. 28, No. 25, 10 July 1992.
- [11] 'Former lieutenant-governor of South Australia issues press release on war crimes trials', *On Target*, The Australian League of Rights, Melbourne, Vol. 27, No. 44, 15 November 1991.
- [12] Robert Manne, 'Discussion', in *The Report of the Symposium on the Proposed War Crimes Legislation in Australia*, Captive Nations Council of Victoria, Melbourne, 1988, p 36. (Senator Cooney, an ALP senator, had said during the symposium: 'The trouble with extradition is that those you send back tend to end up dead. I do not want anybody I have associated with to go back to their death. I cannot support this approach.' See p 27.)
- [13] Dr Efraim Zuroff, 'Zentai Case', in *Shalom Magazine*, No. 48, September 2007, online.
- [14] Gyorgy Vamos, 'Murder on Arena Avenue: is Charles Zentai Guilty?', in *The Monthly*, No. 43, March 2009, online,
- [15] This is the name of the communist court that was operative in Hungary during 1947 and 1948.
- [16] David Weber, 'Zentai case tossed in the too-hard basket', *The Drum*, Australian Broadcasting Corporation, 8 July 2010, online.
- [17] Zuroff, op.cit., p 3.
- [18] Wikipedia article on Zentai, accessed 6 July 2012.
- [19] *The Australian*, 21 June 2006. (There are three major newspapers read in the author's home town of Melbourne – *The Age*, the *Herald Sun* and *The Australian*, the latter

being Australia's only national paper. Coverage of the Zentai case has been much more frequent in *The Australian* than in the other two dailies.)

- [20] *The Australian*, 29-30 July 2006. (Australia has a federal constitution, inaugurated in 1901, whereby the Australian Government holds and exercises certain powers, while the states and territories hold and exercise other powers.)
- [21] *The Australian*, 13 September 2006. (Perth is the capital of the state of Western Australia. It is Zentai's home city.)
- [22] Wikipedia, op.cit. and reports in *The Australian* on 14 February and 17 April 2007.
- [23] *Herald Sun*, 31 May 2007; *The Australian*, 4 September 2007 and 26 September 2007.
- [24] *The Age*, 24 April 2008; the *Herald Sun*, 24 April 2008.
- [25] *The Australian*, 18 August 2008.
- [26] *The Age*, 19 August 2008.
- [27] *The Australian*, 19 August 2008.
- [28] Naomi Levin, *Jewish News* online at Fightdemback, 1 September 2008.
- [29] *The Australian*, 31 March 2009.
- [30] *The Age*, 9 October 2009.
- [31] *The Australian*, 9 October 2009.
- [32] *The Australian*, 23 October 2009.
- [33] Wikipedia entry on Charles Zentai, consulted on 6 July 2012.
- [34] *The Age*, 13 November 2009.
- [35] *The Australian*, 13 November 2009.
- [36] Tanalee Smith, Australian Associated Press, online, 13 November 2009; *The Australian*, 17 December 2009.
- [37] *The Australian*, 12 January 2010.
- [38] *The Age*, 24 February 2010.
- [39] Warwick Stanley, Australian Associated Press, online, 23 February 2010.
- [40] *The Australian*, 29 April 2010.

- [41] *The Australian*, 3-4 July 2010.
- [42] *The Age*, 3 July 2010.
- [43] David Weber, op.cit.
- [44] *Wikipedia*, article on Charles Zentai, consulted on 4 July 2012.
- [45] *Perth Now*, online, 25 January 2011.
- [46] *Perth Now*, online, 16 May 2011.
- [47] Lloyd Jones, *Perth Now*, online, 17 May 2011.
- [48] *The Australian*, 17 May 2011.
- [49] *Herald Sun*, 17 August 2011; 'Extradition saga in Charles Zentai case continues', *News.com.au*, Australian Associated Press, online, 16 August 2011.
- [50] *The Age*, 29 March 2012.
- [51] Vamos, op.cit., pp 3-4.
- [52] *Ibid.*, p 7.
- [53] *Ibid.*, p 1.
- [54] *Ibid.*, p 3.
- [55] *Ibid.*, p 3.
- [57] *Ibid.*, pp 4-6.
- [58] 'Zentai case raises serious questions', editorial in *The Australian*, 17 May 2005.
- [59] Mark Aarons, 'No refuge for war criminals', *The Australian*, 25 April 2008.
- [60] 'War crime accused "too frail"', *The Australian*, 14 February 2007.
- [61] 'Zentai in prison as minister ponders', *The Australian*, 23 October 2009.
- [62] *Perth Now*, online, 16 May 2011.
- [63] Vamos, op.cit., pp 1-2.
- [64] *Ibid.*, p 5.
- [65] Nikolai Tolstoy, foreword in *The Report of the Symposium on the Proposed War Crimes Legislation in Australia*, Captive Nations Council of Victoria, Melbourne, 1988, p 4.

- [66] Manne, op.cit., pp 10-12.
- [67] F.J.P.Veale, *The Veale File*, Institute for Historical Review, USA, Vol. 1, p 31.
- [68] Veale, op.cit., p 229.
- [69] Ibid., p 230.
- [70] Chapman Pincher, *The Secret Offensive*, Sidgwick and Jackson, London, 1985.
- [71] Pincher, op.cit., p 2.
- [72] 'Testimony "clears" Zentai's name', *The Australian*, 1 October 2007.
- [73] Tomas Melicharek, online, 19 June 2008.
- [74] 'Zentai in prison as minister ponders', *The Australian*, 23 October 2009.
- [75] 'Accused war criminal's extradition fight fails', *The Australian*, 13 September 2006; 'Alleged war criminal beat teenager to death, court told', *The Age*, 19 August 2008.
- [76] 'Barrister takes on Zentai case for free', *The Australian*, 12 January 2010.
- [77] In Keltie Zubko, *The Path of Legal Warfare*, subtitled 'Imre Finta's Trial for War Crimes', Veritas, Western Australia, 1991, pp 2-3.
- [78] In Debbie Guest, 'Nazi era's cold case', *The Australian*, 3 November 2009.
- [79] 'Nazi officer acquitted of wartime mass murder', *The Australian*, 21 December 2005.
- [80] 'Evidence "strong" on war charges', *The Australian*, 25 April 2008.
- [81] 'Zentai in prison as minister ponders', *The Australian*, 23 October 2009.
- [82] 'Hungarian far right grows', *The Australian*, 19 February 2010.
- [83] 'Zentai ruling wrong: QC', *The Australian*, 28 April 2010.
- [84] Douglas Christie described Seifert's condition in prison on 5 July 2010: 'The temperature in Mr Seifert's cell was approximately 35 degrees Celsius, with one small fan producing very little effect and an open window about eight feet above the floor, with no screen and thus mosquitoes were free to come in and out of the cell. Mr Seifert, at present, suffers severe infections of his lower legs. Dr Cariello assures me this is chronic, but two years ago I was well aware that Mr Seifert could walk and did not have infections as he has now..... His toes are all infected; one nail having either fallen off or been torn off. His feet are bleeding and emitting pus or evidence of bleeding and weeping infection up to the knees. He had, in an endeavour to staunch

the bleeding and flow of infected material, wrapped his leg in paper, since there were no bandages provided and no evidence of antibiotic prescriptions or topical ointment. He has psoriasis, or had, when he went to Italy, and this appears to have been untreated to a large degree.’ In *Friends of Freedom*, Newsletter for the supporters of the Canadian Free Speech League, Victoria, Canada, July 2010. Seifert died fairly soon after this report.

- [85] ‘Nazi suspect arrested’, *The Age*, 19 July 2012.
- [86] *Wikipedia* article on Charles Zentai, consulted on 6 July 2012.
- [87] *The Australian*, 4 October 2005.
- [88] ‘Setback for accused war criminal’, *The Australian*, 16 February 2009.
- [89] Zuroff, op.cit, p 2.
- [90] Tomas Melicharek, op.cit.
- [91] David Weber, op.cit.
- [92] Ibid.
- [93] Joseph Sapienza, *WAtoday*, online, 26 August 2009.
- [94] *Wikipedia*, article on Charles Zentai, 6 July 2012.
- [95] Joseph Sapienza, op.cit.
- [96] In Karlis Salna, ‘Zentai to challenge extradition decision’, Australian Associated Press, *News.com.au*, online, 12 November 2009.
- [97] For example: - Christopher Bantick, ‘A shadow cast over us’, *Herald Sun*, 29 October 2007; Mark Aarons, ‘No refuge for war criminals’, *The Australian*, April 25 2008; Alan Howe, ‘All aboard? Not quite.’, *Herald Sun*, 2 August 2008; Michael Gawenda, ‘War crimes should be punished – no matter how long it takes’, *The Age*, 28 August 2008; Alan Howe, ‘No use-by date for evil’, *Herald Sun*, 12 October 2009.
- [98] ‘Zentai case raises serious questions’, *The Australian*, 17 May 2005.
- [99] ‘Ellison must send Zentai to Hungary’, *The Australian*, 13 June 2005.
- [100] Zuroff, op.cit., p 3.
- [101] Paige Taylor, ‘Warrant of war accused revealed’, *The Australian*, 9 June 2005.
- [102] ‘Testimony’ “clears” Zentai’s name’, *The Australian*, 1 October 2007.

[103] On 2 September 2008 I sent letters to Bruce Guthrie, editor of the *Herald Sun*, Paul Ramadge, editor of *The Age* and Paul Whittaker, editor of *The Australian*. Each letter appealed to the editor concerned to allow publication of the case in favour of disallowing Zentai's extradition to Hungary.

[104] In *The Australian*, 18 May 2005.

[105] 'Zentai case document "worthless"', *The Australian*, 3 October 2007.

[106] 'Zentai could be extradited this week', *The Australian*, 18 August 2008.

[107] 'War accused loses appeal', *The Australian*, 9 October 2009.

[108] 'Court overrules Zentai extradition order', *The Australian*, 3-4 July 2010.

[109] 'Zentai wants answers on extradition appeal', *The Australian*, 11-12 December 2010.

[110] On Channel Nine, the transcript having been provided by his department.

[111] Dr I. C. F. Spry QC, 'Legal

**Notes:**

The Kalejs Case: An Inappropriate Pursuit', in *National Observer*, Council for the National Interest, No. 44, Autumn 2000, pp 61-66.

[112] 'Zentai to challenge extradition decision', *News.com.au*, online, Australian Associated Press, 12 November 2009.

[113] David Weber, op.cit.

[114] Malcolm McCusker QC, in 'Zentai extradition is "appalling" – Aussie of the Year contender McCusker', *Perth Now*, online, 25 January 2011.

[115] B. A. Santamaria, 'War crimes trials open Pandora's Box', *News Weekly*, Melbourne, 12 October 1988.

[116] Author's email to the *Herald Sun* in response to its news report on 17 April 2007.

[117] 'War crimes should be punished – no matter how long it takes', *The Age*, 31 August 2008.

[118] WA News, *WA Today.com.au*, online, 20 June 2011.

[119] The author sent letters of protest to *The Australian*, *The Age* and the *Herald Sun* as soon as he learned of Zundel's deportation to Germany. None were published and for several months not a word about the deportation was published in the three newspapers. The author on 28 March 2005 wrote a 3,226-word essay about the deportation and the media silence about it and sent it to *Quadrant*, one of Australia's

most prestigious literary and cultural periodicals. Despite his enclosing a stamped, self-addressed envelope for return of the MSS if it was rejected, he heard nothing for over two months. A query led to the simple reply that the MSS would not be used. It appeared that *Quadrant* had joined the syndicate of silence.

- [120] 'Zentai ruling needs scrutiny, says Smith', *The Age*, 3 July 2010, online.
- [121] In a news report by Debbie Guest, 'Nazi era's cold case', *The Australian*, 3 November 2009.
- [122] For example, 'Laws give wriggle room to war criminals', *The Age*, 27 February 2010.
- [123] B. A. Santamaria, op.cit.
- [124] Laurens van der Post, Postscript, in *Night of the New Moon*, Random House, USA, 1970.
- [125] Veale, op. cit., p 254.
- [126] 'Stunned as "war crime" ordeal ends', *The Age*, 16 August 2012.
- [127] Thomas Mautner, 'High Court owes us an explanation', *The Age*, 20 August 2012.
- [128] Efraim Zuroff, 'The case that broke the heart of a Nazi hunter', *The Australian*, 23 August 2012.

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